

1 NIAL E. LYNCH (State Bar No. 157959)
EUGENE S. LITVINOFF (State Bar No. 214318)
2 NATHANAEL M. COUSINS (State Bar No. 177944)
Antitrust Division
3 U.S. Department of Justice
4 450 Golden Gate Avenue
Box 36046, Room 10-0101
San Francisco, CA 94102
5 Telephone: (415) 436-6660

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6 Attorneys for the United States

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA)
12)
13 v.)
14)
15 T. RUDD CORWIN; HEINRICH FLORIAN;)
GÜNTER HEFNER; and PETER SCHAEFER)
16 Defendants.)
_____)

No. CR 04-0397-SI

INFORMATION

VIOLATION:
Title 15, United States Code,
Section 1 (Price Fixing)

San Francisco Venue

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18 The United States of America, acting through its attorneys, charges:
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20 I.

21 DESCRIPTION OF THE OFFENSE

22 1. T. RUDD CORWIN, HEINRICH FLORIAN, GÜNTER HEFNER, and PETER
23 SCHAEFER are made defendants on the charge stated below.

24 2. From on or about July 1, 1999 until on or about June 15, 2002, the defendants'
25 corporate employers, Infineon Technologies, AG ("Infineon AG") and Infineon Technologies North
26 America Corporation ("Infineon NA") and coconspirators, entered into and engaged in a

1 combination and conspiracy in the United States and elsewhere to suppress and eliminate
2 competition by fixing the prices of Dynamic Random Access Memory ("DRAM") to be sold to
3 certain original equipment manufacturers of personal computers and servers ("OEMs"). The
4 combination and conspiracy engaged in by the defendants' corporate employers and coconspirators
5 was in unreasonable restraint of interstate and foreign trade and commerce in violation of Section
6 1 of the Sherman Act (15 U.S.C. § 1). The defendants joined and participated in the charged
7 conspiracy at various periods of time from as early as July 1, 1999 until on or about June 15, 2002.

8 3. The charged combination and conspiracy consisted of a continuing agreement,
9 understanding, and concert of action among the defendants, their corporate employers and
10 coconspirators, the substantial terms of which were to agree to fix the prices for DRAM to be sold
11 to certain OEMs.

12 4. For the purpose of forming and carrying out the charged combination and conspiracy,
13 the defendants, their corporate employers and coconspirators did those things that they combined
14 and conspired to do, including, among other things:

15 (a) participating in meetings, conversations, and communications in the United
16 States and elsewhere to discuss the prices of DRAM to be sold to certain
17 OEMs;

18 (b) agreeing, during those meetings, conversations, and communications, to
19 charge prices of DRAM at certain levels to be sold to certain OEMs;

20 (c) issuing price quotations in accordance with the agreements reached;

21 (d) exchanging information on sales of DRAM to certain OEM customers, for the
22 purpose of monitoring and enforcing adherence to the agreed-upon prices; and

23 (e) authorizing, ordering and consenting to the participation of subordinate
24 employees in the conspiracy.

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1 II.

2 DEFENDANTS AND COCONSPIRATORS

3 5. During certain periods covered by this Information, T. Rudd Corwin was Vice
4 President for Customer Marketing and Sales for Memory Products in North America for Infineon
5 NA, Heinrich Florian was Vice President for Sales Marketing & Logistics for Memory Products for
6 Infineon AG, Günter Hefner was Vice President of Sales for Memory Products for Infineon AG, and
7 Peter Schaefer was Vice President for Marketing Sales & Logistics for Memory Products for Infineon
8 NA. Infineon AG is a corporation organized and existing under the laws of the Federal Republic of
9 Germany, with its principal place of business in Munich, Germany. Infineon NA is a Corporation
10 organized and existing under the laws of Delaware, with its principal place of business in San Jose,
11 California. Infineon NA is a wholly owned subsidiary of Infineon AG. During the period covered
12 by this Information, Infineon AG was engaged in the business of producing and, through its
13 subsidiaries, including Infineon NA, selling DRAM to customers in the United States and elsewhere.

14 6. Various corporations and individuals, not made defendants in this Information,
15 participated as coconspirators in the offense charged in this Information and performed acts and made
16 statements in furtherance of it.

17 7. Whenever in this Information reference is made to any act, deed, or transaction of any
18 corporation, the allegation means that the corporation engaged in the act, deed, or transaction by or
19 through its officers, directors, employees, agents, or other representatives while they were actively
20 engaged in the management, direction, control, or transaction of its business or affairs.

21 III.

22 TRADE AND COMMERCE

23 8. DRAM is the most commonly used semiconductor memory product. DRAM provides
24 high-speed storage and retrieval of electronic information in personal computers, servers and other
25 devices. All references to DRAM in this Information include semiconductor memory devices and
26 modules.

9. During the period covered by this Information, the defendants, their corporate employers, Infineon AG and Infineon NA, and coconspirators sold and distributed DRAM in a continuous and uninterrupted flow of interstate and foreign trade and commerce to customers located in states or countries other than the states or countries in which the defendants, their corporate employers, and coconspirators produced DRAM. The OEMs that were affected by the conspiracy to suppress and eliminate competition were: Dell Inc., Compaq Computer Corporation, Hewlett-Packard Company, Apple Computer, Inc., International Business Machines Corporation and Gateway, Inc.

10. The business activities of the defendants, their corporate employers and coconspirators that are the subject of this Information were within the flow of, and substantially affected, interstate and foreign trade and commerce.

IV.

JURISDICTION AND VENUE

11. The combination and conspiracy charged in this Information was carried out, in part, in the Northern District of California, within the five years preceding the filing of this Information.

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2 ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

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4 _____/s/
5 R. Hewitt Pate
6 Assistant Attorney General

_____/s/
Phillip H. Warren
Chief, San Francisco Office

7 _____/s/
8 Scott D. Hammond
9 Acting Deputy Assistant Attorney General

_____/s/
Niall E. Lynch
Eugene S. Litvinoff
Nathanael M. Cousins
Attorneys
U.S. Department of Justice
Antitrust Division
450 Golden Gate Ave.
Box 36046, Room 10-0101
San Francisco, CA 94102
Tel: (415) 436-6660

10 United States Department of Justice
11 Antitrust Division
12
13 _____/s/
14 Kevin V. Ryan
15 United States Attorney
16 Northern District of California